

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

IN RE ZETIA (EZETIMIBE) ANTITRUST
LITIGATION

This document relates to:

Direct Purchaser Actions

Lead Case No. 2:18-MD-02836-RBS-DEM

**DECLARATION OF THOMAS M. SOBOL IN SUPPORT OF REPLY IN FURTHER
SUPPORT OF DIRECT PURCHASER CLASS PLAINTIFFS' MOTION
FOR CLASS CERTIFICATION**

I, Thomas M. Sobol, hereby declare as follows:

1. I am a member of the bar of the Supreme Judicial Court of the Commonwealth of Massachusetts and of the United States District Court for the District of Massachusetts and have been admitted *pro hac vice* to this Court.¹ I am the managing partner of the Boston office of Hagens Berman Sobol Shapiro LLP, counsel for plaintiff FWK Holdings, LLC, and interim lead counsel for the putative direct purchaser class in this matter. I have personal knowledge of the facts set forth in this declaration.

2. I submit this declaration in support of the Reply in Further Support of Direct Purchaser Class Plaintiffs' Motion for Class Certification.

3. I offer this declaration to provide the Court with information regarding the expected costs to the direct purchaser class plaintiffs associated with this and similar litigation from inception through trial.

4. I have represented clients in civil litigation for more than thirty years. Over the

¹ See Order Granting Motion to Appear *Pro Hac Vice* by Thomas M. Sobol, Case No. 2:18-cv-00023-RBS-DEM (E.D. Va. Jan. 24, 2018), ECF No. 6.

last two decades, I have been appointed lead, co-lead, or liaison counsel for class plaintiffs in numerous antitrust cases alleging the illegal foreclosure of generic competition for pharmaceuticals.² For approximately twelve years, I have represented classes of direct purchaser plaintiffs, such as the proposed class in this case.³

5. I have extensive experience litigating cases such as this one involving complex patent and antitrust issues, including trial of such claims on behalf of a certified class. By far, the greatest cost item in prosecuting these cases is expert fees. The direct purchasers have served fifteen expert reports on a wide range of subjects in this matter, including twelve opening reports and, with Dr. Leitzinger's rebuttal report submitted concurrently herewith, three reports related to class certification. The expert fees associated with these reports to date, which does not include rebuttal reports,⁴ is just under \$1 million.

6. Based on estimates of the anticipated expert fees made at the outset of this case, the nearly \$1 million in expert expenses already incurred, and my experience with the cost of litigation and trials of similar actions, I expect the cost of expert fees in this case through trial to be approximately \$3 million. Adding to that other costs associated with such litigation, I estimate the total cost to the direct purchasers to prosecute this case through trial to be between \$3.7 and \$4.0 million.

7. Additionally, attached hereto are true and accurate copies of the following exhibits cited in the Reply in Further Support of Direct Purchaser Class Plaintiffs' Motion for

² See Memorandum of Law In Support of Direct Purchaser Class Plaintiffs' Motion for Consolidation, Coordination, and Appointment of Class Counsel, No. 18-md-2836-RBS-DEM July 2, 2018, ECF No. 17, at *8-10 (listing cases).

³ *Id.*

⁴ Under the recently revised schedule, defendants are to serve their merits reports on February 28, 2020. See Pretrial Order No. 8, No. 18-md-2836-RBS-DEM, February 13, 2020, ECF No. 868, at *2.

Class Certification, filed concurrently herewith:

Exhibit No.	Description
33	Declaration of Jeffrey J Leitzinger, Ph.D., dated Feb. 20, 2020
34	Expert Report of Jeffrey J. Leitzinger, Ph.D, dated Jan. 13, 2020
35	Compendium of state certificates of good standing for certain class members
36	Deposition of Bruce Strombom, dated Feb. 12, 2020
37	Status Report, <i>King Drug Co. of Florence, Inc. v. Cephalon, Inc.</i> , 2:06-cv-01797, ECF No. 1081 (E.D. Pa. Jan. 23, 2018)
38	Excerpts of Hearing Transcript, <i>King Drug Co. of Florence, Inc. v. Cephalon, Inc.</i> , 2:06-cv-01797, ECF No. 1066 (E.D. Pa. April 18, 2017)
39	Preliminary and Final Approval Orders, <i>King Drug Co. of Florence, Inc. v. Cephalon, Inc.</i> , 2:06-cv-01797, ECF Nos. 831 at 5, 875 (E.D. Pa. July 27, 2015)
40	Complaint, <i>King Drug Co. v. Abbot Labs</i> , No. 2:19-cv-3565, ECF No. 1 (E.D. Pa. Aug. 7, 2019)
41	Plaintiffs' Consent to Jurisdiction, <i>In re AndroGel Antitrust Litig.</i> , No. 1:09-md-2084, ECF No. 1841 (N.D. Ga. Oct. 30, 2019)
42	Injunction Order, <i>Rochester Drug Co-operative. v. Braintree Labs.</i> , No. 07-cv-142, ECF No. 150 (D. Del. July 29, 2011)
43	Order Disposing of Motions in Limine, <i>In re Namenda Antitrust Litig.</i> , Case No. 1:15-cv-07488, ECF No. 859 (S.D.N.Y. Aug. 2, 2019)
44	Excerpt of Transcript of Proceedings, <i>In Re Zetia (Ezetimibe) Antitrust Litigation</i> , 18-md-2836, ECF No. 689 (E.D. Va. October 4, 2019)
45	Excerpt of transcript of deposition of Christopher Masseth, dated Oct. 16, 2019
46	Data concerning Cesar Castillo Inc.'s purchases of Zetia

47	Excerpt of transcript of deposition of Luis Vazquez, dated Oct. 3, 2019
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Executed under the pains and penalties of perjury as of the date set forth below.

Dated: February 20, 2020



Thomas M. Sobol (*pro hac vice*)
HAGENS BERMAN SOBOL SHAPIRO LLP
55 Cambridge Parkway, Suite 301
Cambridge, MA 02142

Dated: February 20, 2020

/s/ William H. Monroe, Jr.

William H. Monroe, Jr. (VSB No. 27441)

Marc C. Greco (VSB No. 41496)

Kip A. Harbison (VSB No. 38648)

Michael A. Glasser (VSB No. 17651)

GLASSER AND GLASSER, P.L.C.

Crown Center, Suite 600

580 East Main Street

Norfolk, VA 23510

Telephone: (757) 625-6787

Facsimile: (757) 625-5959

bill@glasserlaw.com

marcg@glasserlaw.com

kip@glasserlaw.com

michael@glasserlaw.com

*Local Counsel for Direct Purchaser Plaintiffs
FWK Holdings, LLC, Rochester Drug
Cooperative, Inc., Cesar Castillo, Inc. and the
Proposed Direct Purchaser Class*

Thomas M. Sobol

Kristen A. Johnson

Edward Notargiacomo

Hannah Schwarzschild

Bradley Vettraino

HAGENS BERMAN SOBOL SHAPIRO LLP

55 Cambridge Parkway, Suite 301

Cambridge, MA 02142

Telephone: (617) 482-3700

Facsimile: (617) 482-3003

tom@hbsslaw.com

kristenj@hbsslaw.com

ed@hbsslaw.com

hannahs@hbsslaw.com

bradleyv@hbsslaw.com

*Lead Counsel for the Proposed Direct
Purchaser Class*

John D. Radice

RADICE LAW FIRM, P.C.

475 Wall Street

Princeton, NJ 08540

Tel.: (646) 245-8502

Fax: (609) 385-0745

Steve D. Shadowen

Matthew C. Weiner

HILLIARD & SHADOWEN LLP

1135 W. 6th Street, Suite 125

Austin, TX 78703

Tel.: (855) 344-3298

jradice@radicelawfirm.com

Joseph M. Vanek
David P. Germaine
John P. Bjork
Paul E. Slater
Matthew T. Slater
SPERLING & SLATER, P.C.
55 W. Monroe, Suite 3200
Chicago, IL 60603
Telephone: (312) 641-3200
Facsimile: (312)641-6492
jvanek@sperling-law.com
dgermaine@sperling-law.com
jbjork@sperling-law.com
pes@sperling-law.com
mslater@sperling-law.com

Sharon K Robertson
Donna M. Evans
Cohen Milstein Sellers & Toll PLLC
88 Pine Street, 14th Floor
New York, NY 10005
Tel: (212) 838-7797
Fax: (212) 838-7745
srobertson@cohenmilstein.com
devans@cohenmilstein.com

steve@hilliardshadowenlaw.com
matt@hilliardshadowenlaw.com

Joseph H. Meltzer
Terence S. Ziegler
KESSLER TOPAZ MELTZER & CHECK LLP
280 King of Prussia Road
Radnor, PA 19087
Telephone: (610) 667-7706
Facsimile: (610) 667-7056
jmeltzer@ktmc.com
tziegler@ktmc.com

Michael L. Roberts
Karen Sharp Halbert
Debra G. Josephson
Stephanie Smith
William R. Olson
Sarah E. DeLoach
ROBERTS LAW FIRM, P.A.
20 Rahling Circle
Little Rock, AR 72223
Telephone: (501) 821-5575
Facsimile: (501) 821-4474
mikeroberts@robertslawfirm.us
karenhalbert@robertslawfirm.us
debrajosephson@robertslawfirm.us
stephaniesmith@robertslawfirm.us
williamolson@robertslawfirm.us
sarahdeloach@robertslawfirm.us

Counsel for Plaintiff FWK Holdings, LLC and the Proposed Direct Purchaser Class

Linda P. Nussbaum
NUSSBAUM LAW GROUP, P.C.
1211 Avenue of the Americas, 40th Floor
New York, NY 10036-8718
Telephone: (917) 438-9189
lnussbaum@nussbaumpc.com

Jayne A. Goldstein
SHEPHERD, FINKELMAN, MILLER &
SHAH, LLP
1625 North Commerce Parkway, Ste. 320
Fort Lauderdale, FL 33326
Telephone: (954) 515-0123
Facsimile: (866) 300-7367
jgoldstein@sfmslaw.com

Counsel for Plaintiff Cesar Castillo, Inc. and the Proposed Direct Purchaser Class

David F. Sorensen
Zachary D. Caplan
BERGER MONTAGUE PC
1818 Market Street, Suite 3600
Philadelphia, PA 19103

Barry Taus
Archana Tamoshunas
Kevin Landau
TAUS, CEBULASH & LANDAU, LLP
80 Maiden Lane, Suite 1204

Telephone: (215) 875-3000
Facsimile: (215) 875-4604
dsorensen@bm.net
zcaplan@bm.net

Peter R. Kohn
Joseph T. Lukens
FARUQI & FARUQI, LLP
One Penn Center, Suite 1550
1617 John F. Kennedy Boulevard
Philadelphia, PA 19103
Telephone: (215) 277-5770
Facsimile: (215) 277-5771
pkohn@faruqilaw.com
jluken@faruqilaw.com

New York, NY 10038
Telephone: (646) 873-7654
btaus@tcllaw.com
atamoshun@tcllaw.com
klandau@tcllaw.com

Bradley J. Demuth
FARUQI & FARUQI, LLP
685 Third Avenue, 26th Floor
New York, NY 10017
Telephone: (212) 983-9330
Facsimile: (212) 983-9331
bdemuth@faruqilaw.com

Counsel for Rochester Drug Cooperative, Inc. and the Proposed Direct Purchaser Class

CERTIFICATE OF SERVICE

I hereby certify that on February 20, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing (NEF) to all counsel of record who have made a formal appearance

Dated: February 20, 2020

/s/ William H. Monroe, Jr.
William H. Monroe, Jr. (VSB No. 27441)